

(3) The individual was not enrolled in a Part D plan.

(b) [Reserved]

§ 423.48 Information about Part D.

Each Part D plan must provide, on an annual basis, and in a format and using standard terminology that CMS may specify in guidance, the information necessary to enable CMS to provide to current and potential Part D eligible individuals the information they need to make informed decisions among the available choices for Part D coverage.

§ 423.50 Approval of marketing materials and enrollment forms.

(a) *CMS review of marketing materials.*

(1) Except as provided in paragraph (a)(2) and (a)(3) of this section, a Part D plan may not distribute any marketing materials (as defined in paragraph (b) of this section), or enrollment forms, or make such materials or forms available to Part D eligible individuals, unless—

(i) At least 45 days (or 10 days if using certain types of marketing materials that use, without modification, proposed model language as specified by CMS) before the date of distribution, the Part D sponsor submits the material or form to CMS for review under the guidelines in paragraph (c) of this section; and

(ii) CMS does not disapprove the distribution of the material or form.

(2) If the Part D sponsor is deemed by CMS to meet certain performance requirements established by CMS, the Part D sponsor may distribute designated marketing materials 5 days following their submission to CMS.

(3) Prior to distribution, the Part D sponsor submits and certifies that for certain types of marketing materials it followed all applicable marketing guidelines, or for certain other marketing materials that it used, without modification, proposed model language as specified by CMS.

(b) *Definition of marketing materials.* Marketing materials include any informational materials targeted to Medicare beneficiaries which—

(1) Promote the Part D plan.

(2) Inform Medicare beneficiaries that they may enroll, or remain enrolled in a Part D plan.

(3) Explain the benefits of enrollment in a Part D plan, or rules that apply to enrollees.

(4) Explain how Medicare services are covered under a Part D plan, including conditions that apply to such coverage.

(c) *Examples of marketing materials.* Examples of marketing materials include, but are not limited to—

(1) General audience materials such as general circulation brochures, newspapers, magazines, television, radio, billboards, yellow pages, or the Internet.

(2) Marketing representative materials such as scripts or outlines for telemarketing or other presentations.

(3) Presentation materials such as slides and charts.

(4) Promotional materials such as brochures or leaflets, including materials for circulation by third parties (for example, physicians or other providers).

(5) Membership communication materials such as membership rules, subscriber agreements, member handbooks and wallet card instructions to enrollees.

(6) Letters to members about contractual changes; changes in providers, premiums, benefits, plan procedures etc.

(7) Membership or claims processing activities.

(d) *Guidelines for CMS review.* In reviewing marketing material or enrollment forms under paragraph (a) of this section, CMS determines (unless otherwise specified in additional guidance) that the marketing materials—

(1) Provide, in a format (and, where appropriate, print size), and using standard terminology that may be specified by CMS, the following information to Medicare beneficiaries interested in enrolling—

(i) Adequate written description of rules (including any limitations on the providers from whom services can be obtained), procedures, basic benefits and services, and fees and other charges.

(ii) Adequate written explanation of the grievance and appeals process, including differences between the two, and when it is appropriate to use each.